

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BMO HARRIS BANK N.A.,

Plaintiff,

vs.

JUST WASTE, INC., BECKY
WALTERS, and JEFF WALTERS

Defendant.

8:20CV22

**SUMMONS AND ORDER OF
GARNISHMENT (WITH
ATTACHMENTS)**

To

Garnishee:

Veridian Bank
1827 Ansborough Ave.
Waterloo, IA 50701

Judgment Debtor:

Just Waste, Inc.
5618 Frederick Street
Omaha, Nebraska 68106

The judgment debtor is indebted to the judgment creditor in the sum of \$206,057.40. You are required by law to answer the attached Interrogatories and file them in this court within 10 days of service of this summons upon you.

You are obligated to hold the property and credits of every description of the judgment debtor now in your possession or under your control until further notice of this court, except if the only property in your possession or under your control at the time of service of this summons is credits or wages of the judgment debtor, hold only such credits or wages to the extent of the amount due that is shown above.

If you do not answer the attached interrogatories, you will be presumed to owe the judgment debtor the full amount of the claim of the judgment creditor, and upon further notice to you for such amount as the court may find due. You are required by law to answer the attached Interrogatories and file them in this court within 10 days of service of this Summons upon you. Penalties may be imposed in the event of willful falsification. Return your answered Interrogatories to the court within 10 days of service of this Summons upon you.

Dated this 14th day of June, 2021.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

ATTACHED INTERROGATORIES

Concerning Interrogatories to: Veridian Bank

ANSWER OF THE GARNISHEE

I am the above-named garnishee or authorized by the garnishee to make this affidavit on its behalf, regarding the Writ of Garnishment.

On _____, 2021 Garnishee was served with the Writ of Garnishment.

For the account(s) in effect on the date of service:

1. Judgment debtor, Just Waste, Inc., presently maintains account(s) at our bank. YES / NO

(Present means current period in which this Writ and Notice were served)

2. Enter amount in accounts:

(a)	checking	\$ _____
(b)	checking	\$ _____
(c)	checking	\$ _____
(d)	savings	\$ _____
(e)	savings	\$ _____
(f)	other	\$ _____
(g)	other	\$ _____

3. Is there a previous garnishment in effect? YES / NO

If answer is yes, describe :

4. If you deny that you hold property subject to this Writ of Garnishment, please indicate so and describe.

Date:

Prepared by:

PLEASE RETURN TO COURT

NOTICE TO JUDGMENT DEBTOR

The enclosed summons and order of garnishment has been issued by this court at the request of the person who has a judgment against you in the above case. That person is called the judgment creditor. A garnishment is a method of collecting money from you by withholding funds due you by your employer, your bank, or some other third person holding your funds. This notice informs you of your rights as a judgment debtor.

Certain money, funds, or income are exempt from garnishment (cannot be taken) but you must claim the property as exempt. If you believe your wages or bank account funds are exempt from garnishment, you must act quickly or you may lose your right to claim the exemption, and your money, funds, or income may be used to pay the judgment creditor. You must file a claim of exemptions and request for hearing with the court within 3 business days of receiving this notice.

A form to request a hearing on the garnishment is provided with this notice.

1. Wages: Wages are exempt up to a certain level and the amount that can be garnished varies depending on whether you are the head of a family. Head of a family means an individual who actually supports and maintains one or more individuals who are closely connected to him or her by blood relationship, by relationship by marriage, by adoption, or by guardianship, and whose right to exercise family control and provide for the dependent individual(s) is based upon some moral or legal obligation. Neb. Rev. Stat. § 25-1558.
 - a. If you are the head of a family, a judgment creditor can garnish up to 15% of your disposable wages. If you are not the head of a family, a judgment creditor can garnish up to 25% of your disposable wages. If

you believe your status as “not the head of a family” is incorrect, you may request a hearing.

2. Bank accounts and other financial institutions: Some bank account funds are exempt from garnishment if they are from certain government benefits and other sources.

- a. If your bank account consists solely of direct deposited funds from the federal government such as Social Security, SSI, Veterans', Black Lung and/or Railroad Retirement benefits and you have less than 2 months' worth of benefits in your account, then you do not need to request a hearing unless the bank or credit union froze your account. If the garnishment is based on a judgment for support of a person, such as child support or alimony, federal exemptions may not apply. Bank accounts that mingle federal benefits and other money may be subject to garnishment.

Contact and confirm with your bank that your funds are exempt. You do not need to request a hearing unless the bank or credit union froze your account. UPON RECEIVING THIS NOTICE CONTACT YOUR BANK OR FINANCIAL INSTITUTION IMMEDIATELY TO SEE WHETHER THERE IS A HOLD ON THE FUNDS IN YOUR ACCOUNT.

- b. If you are claiming that your bank account funds are exempt as personal property under Neb. Rev. Stat. § 25-1552, you must file a list of all the property you own, including all of your bank accounts, and the value of each item listed. In addition, you must indicate which items you claim to be exempt. Under Neb. Rev. Stat. § 25-1552(1), each natural person residing in this state shall have exempt from

forced sale on execution the sum of five thousand dollars (\$5,000) in personal property, except wages.

3. Please note these exemptions may not apply to judgments for child support, alimony, spousal support, and certain debts owed to the government such as taxes.
4. If the person holding your funds or wages says they owe you money or will owe you money within the next 60 days, and if the judgment creditor makes application, the court will order the person who is holding your money to keep withholding funds for the next 90 days. This is called “continuing lien”. The lien can be extended for a second 90 days by the judgment creditor.
5. If you believe the court should not allow a garnishment either because the funds sought are exempt or because the amount of the garnishment is not owed on the judgment, you are entitled to a hearing to determine those issues. However, the original judgment will not be reconsidered, set aside, or the case tried again as part of an objection to the garnishment proceeding.
6. If you wish a hearing, you must complete the request for hearing on garnishment form provided with this notice and file it with the court within 3 business days of receiving this notice.
7. If you request a hearing, the court will set a hearing date. That hearing date will be set within 10 days after the court receives your request. The court will notify you of the hearing date and time. You must attend the hearing. At the hearing, you must prove your right to an exemption. You should bring to the hearing any documents or other evidence supporting your claim.⁸. If you think you are entitled to an exemption, it may be helpful for you to speak with

an attorney right away. If you need the name of an attorney, you can contact the local bar association. If you cannot afford an attorney, you may want to contact a free legal services provider such as Legal Aid of Nebraska. Information about legal resources and information may be found online at <https://supremecourt.nebraska.gov/self-help/legal-resources-information>.

REQUEST FOR HEARING

I request a hearing on this garnishment proceeding as I believe that (check all applicable boxes):

- ☐ (1) the funds asked for are exempt from garnishment,
- ☐ (2) because I do not owe the amount of the judgment,
- ☐ (3) my status as "not the head of a family" is incorrect.

I understand that the judgment against me will not be set aside or the case reopened or tried again.

Signature: _____

Name: _____

Date: _____

Street Address/P.O. Box: _____

Bar Number and Finn Name (attorneys only): _____

Do not return this request to the court unless you want a court hearing.